

REMARKS AND ARGUMENTS

In the Office Action mailed October 18, 2007, all claims pending in this application were rejected as being obvious in light of various combinations of U.S. Patent No. 6,308,205 ("Carcerano"), U.S. Patent No. 6,085,227 ("Edlund"), and U.S. Patent No. 7,065,250 ("Lennon"), among other references.

For the following reasons, the applicant respectfully traverses these rejections and requests reconsideration.

A. Commands to the DVR Are Sent in Response to Requests from the DVR Itself

The application relates to the remote operation of a digital video recorder (DVR). Each of the independent claims in the application recites that that commands for the remote operation of the DVR are sent to the DVR in response to a request ***from the DVR itself***. Because the prior art relied on does not teach this feature, there is no prima facie case of obviousness.

The Office Action recognizes that the primary reference, Carcerano, does not disclose the feature of sending a command in response to a request from the DVR. See O.A. p. 4 (noting that Carcerano "do[es] not teach in response to a request, send a command"). The Office Action cites Edlund as supposedly disclosing this feature:

Edlund teaches wherein the application, in response to a request from the media device, transmits the commands to the media device (col. 5, lines 18-29).

O.A., p. 4. But the cited portion of Edlund cannot bear this interpretation. Edlund reads as follows:

In addition, the task manager 120 stores these commands or sub-commands in a priority queue 126. . . . The command processor 122 on the device server computer 104 polls the queue 126 for input, and receives one command at a time and sends it to the device 106 via the hardware interface 124 for execution.

Edlund, col. 5, lines 18-29. Thus, Edlund discloses that a command is sent to “the device 106” in response to a request from “the command processor 122.” This command processor is not on the device itself, but rather is on a “server computer 104.” Edlund does not disclose the sending of a command to the device in response to a request from the device itself, as required by the claims.

Even if Edlund did disclose such a feature, there would be no reason to combine its disclosure with those of the remaining references. The Office Action explains that the purpose of adding Edlund is to “allow[] commands to be polled by a device to unsure that the device is not overloaded with too many commands.” O.A., p. 4. Aside from the fact that Edlund shows polling by a server computer—not by a device—it should be noted Edlund’s polling method is designed for the benefit of “slow” devices, “to ensure that a slow device 106 does not get overloaded with too many commands.” Col. 5, lines 19-21. Unlike a “slow” device, digital video recorders have extraordinary memory and processing power. The prior art does not suggest that they would benefit from Edlund’s polling method.

Because the prior art relied on does not teach all disclosed claim limitations of the independent claims, there is no *prima facie* case of obviousness against any of the pending claims in the application.

B. Objection to Official Notice

The applicant objects to the “Official Notice” taken in paragraphs 15 and 52 of the Office Action, which purport to reject claims 24 and 38. See pp. 5, 15. The applicant recognizes that in certain circumstances it is proper to take official notice of “facts.” See M.P.E.P. § 2144.03. The Office Action impermissibly takes official notice not of any facts, but of the legal conclusion of obviousness. *Id.* (“ ‘Official Notice’ is taken that the limitations narrowed by these claims are consider[ed] obvious.”) Accordingly, there is no factual basis for the rejections of claims 24 and 38, and the applicant respectfully traverses those rejections.

The Office Action further suggests that “It would have been obvious . . . to include different interfaces to operate different media devices as a matter of design choice.” *Id.* This reasoning ignores the fact that the examiner’s rejections are based on the “digital camera” of Lennon, see O.A. p. 3, whereas claims 24 and 38 recite, for example, a “Channel Guide.” The Office Action provides no explanation of how the prior could motivate the use of a television channel guide on one’s digital camera. No *prima facie* case of obviousness has been established against claims 24 and 38.

C. Claims 21 and 36 Are Not Obvious

The Office Action purports to reject claims 21 and 36 in view of a combination of **five** different references. There is simply no express or implied reason that these references would all be combined in the manner proposed in the Office Action. Claims 21 and 36 recite that the interface includes data from “broadcast programming guides.” There is simply no reason to add “broadcast programming guide” information to the network configuration

system of Carcerano, the digital camera of Lennon, the scientific instruments of Edlund, or the remotely-controlled computing device of Paroz.

The reason given in the Office Action for making this five-way combination is that a "broadcast programming guide would increase the functionality of [the other references] systems by providing preview context based on user selection of program title." O.A., p. 16. This reasoning does not withstand scrutiny. There is no more motivation to 'increase the functionality' of a digital camera or scientific instrument by adding a broadcast programming guide than there is to 'increase its functionality' by adding, say, a drink dispenser, or a pencil sharpener. No *prima facie* case of obviousness has been established against claims 21 or 36.

Respectfully submitted,

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